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STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DEPARTMENT OF LABOR & ECONOMIC GROWTH
ROBERT W. SWANSON, DIRECTOR

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BILL ANALYSIS

BILL NUMBER: House Bill 6248 (As introduced)
TOPIC: Debt Cancellation Contracts by Utility Companies
SPONSOR: Representative Joe Hune
CO-SPONSORS: Representative Edward Gaffney
COMMITTEE: House Insurance
DATE: June 23, 2006

POSITION

The Office of Financial and Insurance Services (OFIS) supports this legislation.

PROBLEM/BACKGROUND

To assist its customers, many utility companies offer debt waiver/cancellation contracts for assistance with paying monthly utility bills in the event a life changing event occurs that will temporarily or permanently impact the customer's ability to pay. Such events include a call to active military service, death, disability, or family leave. Some utility companies are concerned that these contracts could be interpreted to constitute insurance by OFIS and, if so interpreted, subject utility companies to regulation under the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.100 to 500.8302.

DESCRIPTION OF BILL

The bill would add section 126 to the Code to clarify that debt cancellation contracts offered by utility companies or service providers (public or private) of electricity, natural gas, water, sewer, solid waste collection, or any other similar service, and communications service providers involving the transmission of data, is a waiver of customer liability and therefore, is not insurance and not subject to the Code.

SUMMARY OF ARGUMENTS

Pro

By amending the Code to affirmatively state that debt cancellation contracts offered by utility companies are not insurance, these types of service providers are given certainty that these agreements will not be interpreted to be insurance. Any remaining doubt that the activity of utilities in this regard might be considered insurance is removed, which thwarts any perceived or real attempts to bring them under the auspices of OFIS or the Code.

Dating back several years, OFIS declaratory rulings and Attorney General formal and informal opinions have been consistent with this amendment that puts in statute clarity that these types of service contracts are not subject to OFIS regulation.

Con

OFIS has been consistent over the years that these types of service contracts are not insurance, are not under its purview, and the agency has not demonstrated any willingness to look at these contracts in any manner that would suggest they are, or should be regulated by OFIS.

By affirmatively stating that these types of contracts are not subject to OFIS regulation, other entities offering similar arrangements could become concerned that since they are not explicitly exempted from the Code, they may now become subject to oversight by the OFIS Commissioner.

FISCAL/ECONOMIC IMPACT

OFIS has identified the following revenue or budgetary implications in the bill as follows:

(a) To the Office of Financial and Insurance Services: None known.

Budgetary:

Revenue:

Comments:

(b) To the Department of Labor and Economic Growth: None known.

Budgetary:

Revenue:

Comments:

(b) To the State of Michigan: None known.

Budgetary:
Revenue:
Comments:

(d) To Local Governments within this State: None known.

Comments:

OTHER STATE DEPARTMENTS

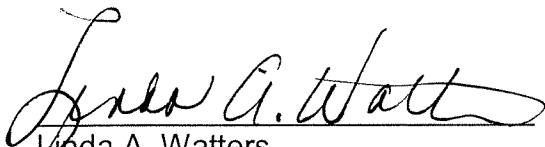
None known.

ANY OTHER PERTINENT INFORMATION

None known.

ADMINISTRATIVE RULES IMPACT

The OFIS has general rulemaking authority under the Insurance Code of 1956, 1956 PA 218.



Linda A. Watters
Commissioner

6-26-06

Date